MINUTES OF THE PUBLIC MEETING & CLOSED SESSION
Held on January 16, 2013
Sacramento, California

PRESENT:
Art Carter, Chairperson
Ed Lowry, Member
Judith Freyman, Member
Kari Johnson, Acting Executive Officer
Ursula Clemons, Presiding Administrative Law Judge
Martin Fassler, Presiding Administrative Law Judge
Jeff Mojcher, Chief Counsel
Thomas Song, Industrial Relations Counsel II
Lee Berlin, Executive Secretary

MINUTES OF JANUARY 2, 2013 MEETING:
(Approve or amend minutes of previous Board meeting)
ACTION: Member Lowry moved that the Board approve the draft minutes of the January 2, 2013 Board Meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the January 2, 2013 Board Meeting.

ADMINISTRATIVE MATTERS:
(Information regarding the general administration of cases pending before the Appeals Board)

1. 2012 RULEMAKING MATTERS
   (Discuss/implement Board rulemaking changes)
   ACTION: Acting Executive Officer Kari Johnson reported that the comment period for the current rulemaking package will end on January 25.

2. 2013 HEARING CALENDAR/STATISTICS REPORTS
   (Review and discuss current calendaring and statistical information)
   ACTION: Acting Executive Officer Kari Johnson explained how the hearing calendar report and several other statistics reports are compiled and suggested alternative formats for the information being reported.

NEW BUSINESS:
(The Appeals Board hears and discusses new reports presented by staff.)

1. 2012/2013 BUDGET:
   (Review and discuss budget issues for the fiscal year)
ACTION: Acting Executive Officer Johnson discussed the progress of the proposed remodel of the West Covina office and the security issues the project is expected to remedy.

OLD BUSINESS:
(The Appeals Board hears and/or discusses matters on a follow-up basis.)

ACTION: No report.

LEGISLATION:
(Review and discuss current legislation which may affect the Appeals Board)
ACTION: No report.

CHAIRPERSON’S REPORT:
(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)
ACTION: Chair Charter reported that he and Acting Executive Officer Johnson will meet the Federal OSHA representative for the quarterly meeting on January 25.

BOARD MEMBERS’ REPORTS:
(Hear reports from Board Members on activities and issues affecting the Appeals Board.)
ACTION: No report.

EXECUTIVE OFFICER’S REPORT:
(Report regarding administrative matters and news from the Department and Appeals Board.)
ACTION: No report.

STAFF REPORTS:
(Reports from the Presiding ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)
ACTION: No report.

PUBLIC COMMENT:
/Public comment will be entertained during the discussion of each agenda item of the Open Meeting./
ACTION: No report.

The Board recessed to its Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

DAVID R. MILLER CONSTRUCTION INC., 11-R2D1-0456
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

GLOBAL LEISURE PRODUCTS, INC. DBA SPA HOPPER, 12-R2D2-1416
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

RONALD D. LITTLE DBA AAA TREE SERVICE, 11-R2D1-1499
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

JOHN MOURIER CONSTRUCTION INC., DBA JMC HOMES, 11-R2D1-0086
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

RAJ KUMAR SHARMA DBA SUNRISE ORCHARDS, 10-R2D1-3390 AND 3391
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

SOUTHLAND-TUTOR-PERINI JOINT VENTURE, 11-R5D1-3248 AND 3249
ACTION: Member Lowry moved that the Board grant reconsideration of this matter on its own motion. Member Freyman seconded. The Board voted to grant reconsideration of this matter on its own motion.

T. SHANNON CONSTRUCTION, INC., 11-R2D2-2053
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

THYSSENKRUPP ELEVATOR, 11-R2D1-2217 THROUGH 2219
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.
YNT HARVESTING, 08-R2D5-5010  
ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

ORDERS OF ADMINISTRATIVE LAW JUDGES:
ADB ENTERPRISES, LLC DBA GILL RANCH COMPANY, 12-R6D7-1924  
ALBANY BOWL PROPERTIES PARTNERSHIPS, LP, 12-R1D4-2495 THROUGH 2497 *
ALLIANCE RESIDENTIAL BUILDERS II GP INC., 12-R4D2-1219  
BERKE DOOR & HARDWARE, INC., 11-R2D1-0543  
BEST DRILLING & PUMP INC., 12-R2D5-2735 AND 2736  
BO DEAN CO INC., 12-R5D1-1879  
BODYCOTE THERMAL PROCESSING INC., 12-R4D2-1223 THROUGH 1225 *  
BUTTE LODGE OUTING CLUB, INC., 12-R2D3-0981 *  
CABLE BROTHERS INC., 12-R4D2-1220 AND 1221  
CALIFORNIA DAIRIES, INC., 12-R2D5-1598  
CALIFORNIA FORENSIC MEDICAL GROUP INCORPORATED, 12-R1D5-1797  
JOSE CARDENAS DBA CARDENAS CONSTRUCTION, 12-R6D7-2291 AND 2292 THROUGH 1779  
CLARK & SULLIVAN BUILDERS, INC., DBA CLARK & SULLIVAN CONSTRUCTION, 12-R2D3-2163 THROUGH 2165  
CLEAN COAT PAINTING, INC., 12-R2D2-0740  
PEDRO DUARTE DBA DUARTE AUTO BODY, 12-R6D7-2056 AND 2057  
FOXFIRE CONSTRUCTORS, INC., 12-R5D1-2110  
GENERAL MILLS, INC., 12-R2D4-1490  
ROSAlio GONZALES DBA LOS AMIGO TRANSMISSION & AUTO REPAIR, 12-R6D7-1473 THROUGH 1475  
GEOFFREY AND JIL HALES DBA BARNDIVA, 12-R1D5-1309  
J. GILMORE CONSTRUCTION, INC., 12-R6D7-1921 THROUGH 1923  
DAVE LUNA, ROBERT BURKHARDT DBA TRU-COLOR CONCEPTS, 12-R6D7-1855  
MARKET RECYCLING INC., DBA CANCO RECYCLING, 12-R3D5-0707 AND 0708 & 12-R3D5-1190  
MONTE VISTA FARMING COMPANY, 12-R2D4-1702 THROUGH 1704  
PENNY NEWMAN GRAIN COMPANY, INC., 12-R2D4-0777 AND 0778  
PICTURE PERFECT POOL SERVICES, INC., 12-R2D2-1666  
PLANT SCIENCES INC., 12-R2D3-3251  
PRODUCERS DAIRY FOODS, INC., 09-R2D5-1656 THROUGH 1659  
RJS & ASSOCIATES CONCRETE STRUCTURES, 12-R1D3-2571  
JESSICA RODRIGUEZ, 12-R2D4-0353  
SACRAMENTO REGIONAL TRANSIT DISTRICT, 11-R2D1-2820  
SAN RAFAEL ROCK QUARRY, INC., 12-R5D1-2165  
SHINGLETOWN TREE SERVICE, 12-R2D3-0077 AND 0078
SOLNUS THREE LLC DBA ROSEVILLE POINT HEALTH & WELLNESS CENTER, 11-R2D1-3170
STEVE WILL’S TRUCKING & LOGGING LLC, 11-R2D3-0430
STEVE WILL’S TRUCKING & LOGGING LLC, 11-R2D3-0431
STILLWATER CAT HAVEN, 12-R2D1-3459
SUTTER EMERGENCY CENTER, 12-R6D3-2532 *
TUTOR-SALIBA CORPORATION, 12-R5D1-1946 THROUGH 1956
UNITED COMPOST & ORGANICS, DBA FOXFARM SOIL & FERTILIZER COMPANY, 12-R2D3-2501
USS CAL BUILDERS, INC., 12-R4D1-0289
VALLEY CREST TREE CARE SERVICES, 12-R4D1-1218
VENTURA FOODS, INC., 12-R6D4-2449 THROUGH 2451
VICTOR PRODUCE, INC., 12-R2D4-2098

WAWONA FROZEN FOODS, 12-R6D3-0690 THROUGH 0693

ACTION: Member Lowry moved that the Board approve these Orders of Administrative Law Judges. Member Freyman seconded. The Board voted to approve these Orders of Administrative Law Judges. Orders with asterisks are deemed approved as amended

ORDERS DISMISSING APPEALS:

EDCO WASTE & RECYCLING, 12-R3D2-0163 AND 0164
DRAEGER CONSTRUCTION, INC., 11-R1D1-2215

FURNITURE BY THURSTON, 11-R2D1-2497 THROUGH 2499

ACTION: Member Lowry moved that the Board approve these Orders Dismissing Appeal from Administrative Law Judges. Member Freyman seconded. The Board voted to approve these Orders Dismissing Appeal from Administrative Law Judges. Orders with asterisks are deemed approved as amended

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

NORTH RANCH BUILDERS INC., 12-R6D7-3624 THROUGH 3626

ACTION: Member Lowry moved that the Board approve this Order Granting Leave to File Late Appeal from an Administrative Law Judge. Member Freyman seconded. The Board voted to approve this Order Granting Leave to File Late Appeal from an Administrative Law Judge.

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

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1. SOUTHERN CALIFORNIA EDISON, 12-R3D3-0499
   (Petition for Reconsideration)

   ACTION: Member Lowry moved that the Board vote to accept the Legal
   Unit’s recommendation to deny this Petition for Reconsideration.
   Member Freyman seconded. The Board voted to accept the Legal Unit’s
   recommendation to deny this Petition for Reconsideration.

   Member Lowry further moved that the Board extend itself an additional
   15 days in order to respond to the Petition in accordance with Labor Code
   section 6624. Member Freyman seconded the motion. The Board voted to
   extend the time to act by 15 days in order to respond to the petition.

2. TL PAVLICH CONSTRUCTION, INC., 11-R3D6-1303 THROUGH 1310
   (Decision of Administrative Law Judge)

   ACTION: Member Lowry moved that the Board grant reconsideration of
   this matter on its own motion. Member Freyman seconded. The Board
   voted to grant reconsideration of this matter on its own motion.

PETITIONS FOR RECONSIDERATION

1. FOSTER DAIRY FARMS, 10-R2D1-1981

   ACTION: Member Lowry moved that the Board vote to accept the Legal
   Unit’s recommendation to deny this Petition for Reconsideration.
   Member Freyman seconded. The Board voted to accept the Legal Unit’s
   recommendation to deny this Petition for Reconsideration.

2. JACOV HERSCU DBA JACK’S GENERAL CONTRACTING,
   11-R1D4-1725-1729

   ACTION: Member Lowry moved that the Board vote to accept the Legal
   Unit’s recommendation to deny this Petition for Reconsideration.
   Member Freyman seconded. The Board voted to accept the Legal Unit’s
   recommendation to deny this Petition for Reconsideration.

3. PCS SOLUTIONS, INC., 12-R3D6-0578 AND 0579

   ACTION: Member Lowry moved that the Board vote to grant
   reconsideration and remand this matter to the Administrative Law Judge.
   Member Freyman seconded. The Board voted to approve an Order of
   Remand for this matter.

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. LIU’S ENTERPRISE CONSTRUCTION, CO., 12-R3D1-9141

   ACTION: Member Lowry moved that the Board vote to approve these
draft Denials of Petitions for Reconsideration for signature. Member
Freyman seconded. The Board voted to approve these draft Denials of Petitions for Reconsideration for signature.

**MATTERS PENDING RECONSIDERATION:**
*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)*

A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
AC TRANSIT, 08-R1D4-0135
AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239 THROUGH 2241
BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445 AND 3448
BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
COFFMAN SPECIALTIES, INC., 10-R3D3-3532
COMMERCIAL METAL FORMING, 09-R3D1-1592
COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
COUNTY OF ALAMEDA, GENERAL SERVICES AGENCY, 11-R1D4-3064
CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
EZ MIX, INC., 08-R4D3-1898
GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
IRWIN INDUSTRIES, 08-R6D4-1454
LAND O’ LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
LION RAISINS, INC., 08-R2D5-2253 AND 2254
L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
MARINE TERMINALS, 08-R6D2-1920
MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0364
OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
PERSONNEL PLUS, INC., 11-R3D5-1302  
ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048  
JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710  
SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055  
SHIMMICK-OBABASHI, 08-R3D3-5023 THROUGH 5025  
SMUD, 08-R2D1-4887 THROUGH 4889  
MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418  
STAFFCHEX, 10-R4D3-2456 THROUGH 2458  
SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850  
A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443  
VAN EVERY CONSTRUCTION, INC., 11-R1D4-0936 AND 0937  

LEGISLATION:  
ACTION: No report.  

PENDING LITIGATION:  
(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)  

SUPERIOR COURT:  

1. XL CONSTRUCTION, 34-2009-80000300 (08-1191/1193)  
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)  
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)  
   ACTION: Chief Counsel Mojcher reported that the legal unit is preparing a brief to file this week in preparation for a hearing scheduled in February.  
4. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09-9280/9281)  
5. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)  
6. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)  
7. SMUD, 34-2010-80000723 (08-R2D1-4887)  
8. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)  
9. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
10. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)

11. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010 (08-R2D1-3273)

12. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459 THROUGH 2461)

13. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)

14. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)

   ACTION: Chief Counsel Jeff Mojcher reported that this case was decided last week in a Los Angeles court and the judge ruled in favor of the Board.

15. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039 (07-R2D3-0275)

16. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)

17. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)

18. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)

19. DUININCK BROS., INC., 34-2012-80001129 (06-2871)

20. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)

21. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)

22. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)

23. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)

24. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)

25. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)

26. PRESTON PIPELINES, INC., 34-8012-80001277 (09-R6D7-3345)

27. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)

28. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
29. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)

30. A. TEICHERT & SON, DBA TEICHERT AGGREGATES, RG12 659881 (10-R5D1-3029)

**PERSONNEL:** *(Issues regarding staff)*  
**ACTION:** Acting Executive Officer Kari Johnson discussed personnel matters.

The Closed Session adjourned at 12:37 p.m. and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its ACTIONS in the Closed Session, as indicated above. The meeting was adjourned at 12:38 p.m.